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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,059	08/19/2004	Hans Stervik	7589.193.PCUS00	9451
28694	7590	08/01/2006	EXAMINER	
NOVAK DRUCE & QUIGG, LLP 1300 EYE STREET NW 400 EAST TOWER WASHINGTON, DC 20005			LEWIS, TISHA D	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/711,059

Applicant(s)

STERVIK, HANS

Examiner

TISHA D. LEWIS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The following is a response to the amendment received on May 5, 2006 which has been entered.

Response to Amendment

Claims 1-7 are pending in the application.

-The objection to the abstract and disclosure has been withdrawn due to applicant amending the abstract and disclosure to correct language and typographical errors.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. Applicant's arguments (page 7) are not claimed, i.e., that the invention teaches a system that "automatically" controls output torque from an engine (line 11), that the invention achieves the "maximum allowable ***predetermined*** torque level" (line 14), and that the invention is directed to preventing damage to the vehicles differentials by providing an automatic system that requires no input from the driver (lines 16 and 17).

As to applicant's arguments concerning the Erban reference, this reference is disclosed as a secondary reference to show that it is well known in the art to control engine output to a specific level to protect the differentials (abstract, line 3) as applicant's invention is doing. As in applicant's invention, Erban also provides an "automatic" reduction of torque to a manageable level takes place (abstract, lines 9-12) wherein "manageable level" can correspond to the "maximum allowable torque level" limitation of the present invention.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 93/01065 in view of Erban ('622). WO discloses an engine (2) drivingly associated with paired sets of drive wheels (4), a differential (7) arranged between the paired drive wheels of a set and including differential locks (8) for locking the differentials, a control unit (6 and 14) configured to control the engine and differential locks and reduce speed of the engine after receiving an input signal indicating locking of the differential (via 24).. WO does not disclose reducing positive or negative torque of the engine.

Erban discloses an engine (14) associated with paired sets of wheels (10), a differential (11, 13) arranged between the paired drive wheels of a set and including a differential locking function using brakes (via 20) for braking speed difference between

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the wheels to protect the differentials, a control unit (15) configured to control the engine to reduce output torque or engine speed to a viable or manageable level.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an engine torque reduction in the WO reference with the engine speed reduction in view of Erban to control excessive wheel slip and enormous centrifugal forces on tires that can cause blowouts.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO in view of Erban as applied to claims 1 and 2 above, and further in view of the background art of the present invention.

WO in view of Erban disclose a wheel differential lock (8), but does not disclose an axle differential.

The background of the present invention discloses that wheel differentials and axle differentials having locks are well known in the art.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide WO in view of Erban with axle differential locks in view of the background art of the present invention to adjust speed differences between driven wheels and ensure even torque distribution over all the driven wheels.

Allowable Subject Matter

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-Thur 6 AM TO 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tdl
July 24, 2006


TISHA LEWIS
PRIMARY EXAMINER
Art 3681 7/24/06